

Statement from the University Senate on the Removal of Censure by the AAUP

Loyola University New Orleans

14 April 2011

Backgrounds

Loyola University New Orleans has been under censure by the AAUP (American Association of University Professors) since June of 2007. The censure was imposed after a formal investigation determined that in the reorganizations following the levee failures after Hurricane Katrina (August 2005), the University Administration failed to follow the explicit processes set forth in the *Faculty Handbook* to protect the academic and procedural rights of faculty.

Since nearly half of the current university faculty members were not at Loyola during these events and the subsequent censure, the University Senate offers the following synopsis of the principal events that generated the AAUP censure.

After Hurricane Katrina made landfall on Monday, August 29, New Orleans experienced multiple levee failures that caused widespread flooding and destruction. In early September, Loyola officially closed its operations indefinitely and students were assisted in enrolling in campuses across the nation to complete the fall term. Soon after, President Kevin Wildes, S.J., notified faculty and staff that salaries would continue to be paid during the fall semester, a decision that the Senate gratefully acknowledged soon after the university re-opened.

Meanwhile, the physical campus fared relatively well, with an estimated \$5 million dollars in damages, most of which was recovered from insurance policies. When the Loyola campus reopened in the spring of 2006, faculty, staff and students returned in great spirits and in surprisingly large numbers, ready to take on the task of rebuilding our university and our city, despite the fact that over half of the faculty and staff had lost their own homes to flooding and were themselves displaced.

President Wildes appointed an advisory task force, and the standing university committees, including the Senate, began to discuss how best to respond to a predicted drop in enrollment and the accompanying loss of tuition revenues. However, since none of these committees were allowed to participate fully in discussions or make any decisions on how to proceed, their deliberations seemed to many faculty members to have been used only to create a semblance of shared governance. The Standing Council for Academic Planning (SCAP), for example, spent the entire spring semester discussing a document proposed by Provost Walter Harris on program review criteria, anticipating the termination of programs as a way to address the crisis. Since the Faculty Handbook (Ch.9E) requires SCAP to review programs proposed for termination using criteria established by the University Senate, SCAP sent this document to the Senate for its approval on April 6, and the Senate appointed a subcommittee to review the criteria in the light of data that was to be published the following day, data that would presumably justify a proposal that was to be unveiled the following week.

But on Monday, April 10, a plan for reorganization, known as Pathways, was posted on the Provost's website. That day, the university learned that seventeen tenured faculty members were being released because their programs (in computer science, education, three popular sequences in communications, and others) were being terminated; that several programs (including physics) were being suspended; that City College (the college for part-time, adult students) was being dissolved altogether; and that three of the colleges and their departments were being reorganized.

Several tumultuous weeks followed, with emotional town hall meetings, faculty committees working diligently over the Easter Break to assess the proposal and offer revisions to the plan, and several votes of no confidence by various groups and colleges. On April 20th, after the subcommittee reviewing the SCAP criteria reported that the data posted in support of Pathways was at best incomplete, the Senate voted no confidence in the process that produced Pathways. However, the administration's decisions remained essentially unchanged. Despite the protests and pleas of the faculty and student body, the threat of lawsuits, and the prospect of censure by the AAUP, the Board of Trustees approved the Pathways reorganization at its May meeting, 2006.

A number of issues, some singled out by the AAUP, have remained particularly troubling to the faculty, not least because they represented a lack of good faith on the part of an institution to which most faculty were deeply committed.

- 1) Despite the clear language of the *Faculty Handbook*, no effort was made to find other employment within the university for the seventeen terminated faculty.
- 2) Many of those faculty members, some of whom had served the university for decades, were locked out of their offices and treated unprofessionally and with little respect by the administration.
- 3) The faculty committees charged with reviewing the administration's proposals, particularly SCAP and the Senate, were given very little time to respond to the Pathways documents and were not provided with accurate data.
- 4) The budget and enrollment figures that were used to justify the termination of programs were severely disputed, implying that these administrative decisions were at best arbitrary, at worst, personally motivated, rather than data-driven.
- 5) Many of the released faculty members appealed their terminations to the University Rank and Tenure Committee (URTC), which then spent countless hours in the 2006-2007 academic year hearing evidence and reviewing these appeals. The URTC found consistently that the faculty members in question were terminated in violation of their contract, the *Faculty Handbook*. The administration simply disregarded the URTC's findings.

After censure was applied in 2007, eight of the terminated faculty members pursued legal action against the university; all of these lawsuits resulted in monetary settlements by Loyola. The last of those lawsuits was settled out of court in November 2010, thus opening the way for the removal of censure. President Wildes requested that the AAUP clarify the steps in this process and Jordan Kurland, Associate General Secretary of the AAUP, has responded with a series of questions to the local AAUP chapter and the University Senate.

Specifically, the AAUP wishes to know whether or not the "no confidence" votes of 2006 and 2007 still stand and, if not, what has changed at the university; or if so, what would need to change to produce a more favorable university climate.

Response of the University Senate

Given the preceding account of the events that led to censure and upon the recommendation of the Senate Executive Committee, the University Senate responds as follows:

Since the votes of no confidence in 2006 and 2007, most members of the administration have changed. Overall, there has been dramatic improvement in the responsiveness of the university administration to the faculty and to the structures of faculty governance, particularly with the appointment of a new provost in 2008 and the departure of most members of the administration responsible for the Pathways reorganization.

The current provost, Dr. Ed Kvet, regularly attends meetings of the Senate and other deliberative bodies, consults with the Senate Executive Committee on important issues, and has worked actively to include faculty in decision-making in a range of committees and task forces. The recent closing of the Business School's Music Industry program exemplifies the Administration's greater fidelity to the processes of the Faculty Handbook. In addition, the settlement of the court cases has further improved the opportunity for dialogue. In sum, the current provost has done a great deal to restore the reality of faculty governance at Loyola University New Orleans and improve both the morale of the faculty and the successful functioning of the university.

However, while we believe that we are now on a more positive trajectory, there are some remaining issues that must be resolved before the Senate would support the removal of censure.

The Senate appreciates the recognition by the AAUP that our *Faculty Handbook* was exemplary in the protection of faculty rights. We also understand that the failure to follow its procedures, not its inadequacies (as was the case for other local universities), was the primary reason for censure. One priority since the imposition of censure has been the revision of the handbook so that it accurately reflects the modified structures and governance of the university, including recommendations from the University Rank and Tenure Committee (URTC) that certain provisions regarding the appeals process and other protections of tenure be clarified. These changes are in the process of approval by the Senate and will be submitted to the Board of Trustees by the end of this term.

Given the historic strength of our *Faculty Handbook*, the failure to follow its procedures in a period of crisis created a deep breach of trust between the faculty and its administration. And while the substance of faculty governance has been largely restored since that crisis, there has never been an acknowledgement by the president of that breach and its damaging effects on the collaborative spirit that has been at the heart of Loyola University New Orleans.

Accordingly, the critical conditions for the removal of censure would be, first, an acknowledgement by the president to the faculty of that breach of trust, along with a determination to restore the essential spirit of trust between the faculty and its administration; and, second, a reaffirmation of the contractual force of the *Faculty Handbook*, assuring that the faculty can once again rely on its provisions in the shared governance of Loyola University New Orleans. As the President of Loyola, Fr. Kevin Wildes, S.J., should also convey that re-affirmation of the contractual force of the *Faculty Handbook* to the Board of Trustees.

The University Senate believes that, once these conditions are met, it would be able to assert once again its confidence in both the spirit and the reality of faculty governance at Loyola University New Orleans.

Proposed by the Senate Executive Committee, February 10, 2011; discussed and amended, March 24, 2011; approved April 14, 2011.